

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser
Deputy Director

DATE: December 16, 2008

SUBJECT: BZA Application 17855 - Request filed by Holland & Knight LLP for **three area variances** and **one special exception** for the construction of a CVS drug store at 3642-3646 Georgia Avenue, N.W., for CVS Pharmacy, LLC and The Velmeir Companies.

APPLICATION

Application of CVS Pharmacy, LLC and The Velmeir Companies for:

- 1) **A variance to § 2101.1 of Title 11 DCMR**, to reduce the minimum off-street parking requirement from 20 to 0;
- 2) **A variance to § 2201.1 of Title 11 DCMR**, to reduce the minimum number of loading berths and loading platforms from one to 0;
- 3) **A variance to § 2500.1 of Title 11 DCMR**, to permit accessory dumpsters to not be located on the same lot as the primary use; and
- 4) **A special exception pursuant to § 1330.1(b) of Title 11 DCMR**, to permit the construction of a building on a lot consisting of more than 12,000 square feet

for a property located on the west side of Georgia Avenue, the southeast side of New Hampshire Avenue and the north side of Princeton Place, N.W.

Note: The subject application requests special exception approval pursuant to § 1330.1(b) of the Zoning Regulations to construct a building on a lot consisting of more than 12,000 square feet within the Georgia Avenue Overlay District. However, the Office of Planning, in consultation with the Office of the Attorney General, is not of the opinion that this relief is necessary. Although the two lots owned and proposed to be used by applicant combined consist of more than 12,000 square feet in area, neither lot alone is in excess of this area requirement. Additionally, the two lots are separated by a public alley, precluding consolidation as an option. The proposed CVS store would be located on only one of the lots, with no buildings proposed for the second.

SUMMARY RECOMMENDATION

The Office of Planning recommends **APPROVAL** of the requested variances subject to the conditions contained at the end of this report.

AREA DESCRIPTION

Square:	2897	Lots:	145 & 147	Quadrant:	North West
Area:	12,200 SF	Zone:	C-3-A	Overlay:	Georgia Avenue
Alley Width:	15 feet	Historic District:	None	Building Restriction Line:	None
Existing Improvements:	None				

MAJOR BUSINESS AND EMPLOYMENT CENTERS (C-3)

“The C-3 District is designed to accommodate major business and employment centers supplementary to the Central Business (C-4) District.” (§ 740.1)

“The C-3-A District shall permit medium density development, with a density incentive for residential development within a general pattern of mixed-use development.” (§ 740.4)

GEORGIA AVENUE COMMERCIAL OVERLAY DISTRICT (GA)

“The Neighborhood Commercial (NC) Overlay District is established to preserve and enhance neighborhood shopping areas, by providing the scale of development and range of uses that are appropriate for neighborhood shopping and services.” (§ 1300.1)

“The NC Overlay District includes a number of individual overlay zone districts that may be established and mapped from time to time, consistent with the general provisions of this chapter.” (§ 1300.1)

Surrounding Properties:

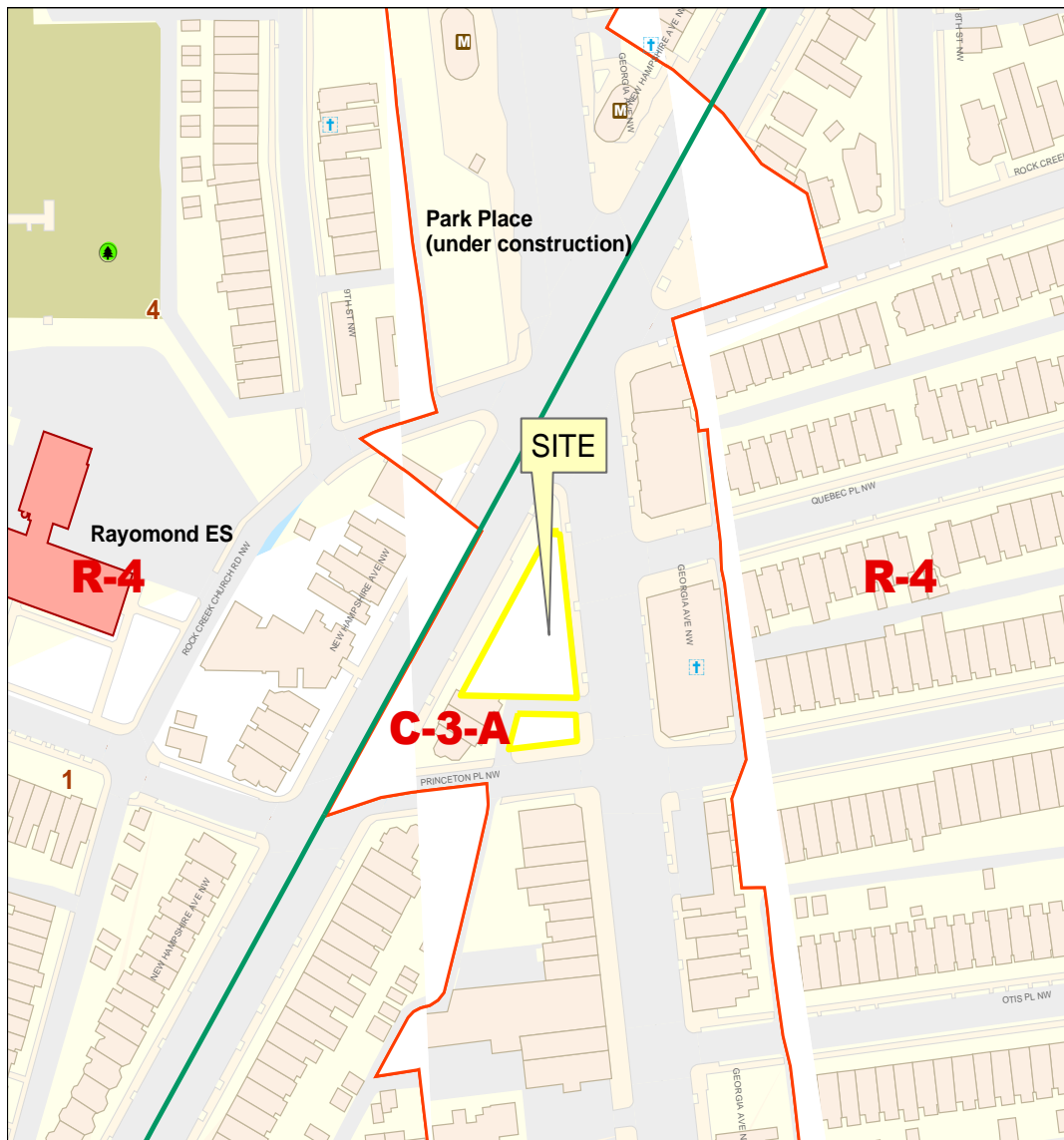
- North:** Across Rock Creek Church Road, the Park Place mixed-use building under construction on the west side of Georgia Avenue and two-story retail buildings on the east side of Georgia Avenue within the C-3-A district and the GA overlay district.
- South:** Three row houses within the C-3-A district. Across Patterson Place are residences within the R-4 District and commercial buildings fronting on Georgia Avenue within the C-3-A district and the GA overlay district.
- East:** Across Georgia Avenue, commercial buildings and a church within the C-3-A district and the GA overlay district.
- West:** Across New Hampshire Avenue, row houses, apartment buildings and the historic Petworth Firehouse building within the R-4 district.

SITE DESCRIPTION

The subject property consists of two lots totaling 12,200 square feet in area. The two lots are separated by a 15-foot wide public alley that also serves the three row houses at the northeast

corner of Patterson Place and New Hampshire Avenue. The larger of the two lots, Lot 147, is 10,413 square feet in area and triangular shaped. It is asphalt paved and enclosed by chain link fencing. Lot 147 is bordered by a Metrorail tunnel serving the green and yellow lines that runs under New Hampshire Avenue on the west, Georgia Avenue to the east and the public alley to the south. To the north is the intersection of Georgia Avenue and New Hampshire Avenue.

Lot 145, the smaller lot, is 1,787 square feet in area, 24.45 feet in width and is rectangular in shape. It is also asphalt paved, enclosed by chain link fencing and located at the northwest corner of Patterson Place and Georgia Avenue.



Zoning & Vicinity Map

PROJECT DESCRIPTION

The application proposes the construction of a 9,102 square foot CVS drug store on Lot 147, the larger of the two lots. The building would be one story in height, with a 1,602 square foot upper level located in the southwest corner of the building above the offices and receiving area for storage. In addition to the offices and receiving area, the lower floor would also include the retail area of the store.

A refuse dumpster and a recycling dumpster are proposed to be located on Lot 145, across the public alley from the store and they would be screened from public view by 8-foot 4-inch brick enclosures buffered with trees and shrubs.

Loading is proposed to take place within the alley on the south side of the store between the hours of 8:00 AM and 7:00 PM, Monday through Friday. Deliveries would consist of one 50-foot truck and fifteen 30-foot trucks per week. The applicants propose to expand the paving of the portion of the alley south of the store to a width of 24 feet to accommodate bypass traffic in the alley during loading times for the store. As a result of the widening of the alley, the width effective of Lot 145 will be reduced to approximately 15 feet. No buildings would be constructed on this lot.

Pedestrian access to the building would be at the corner of Georgia and New Hampshire, on the north side of the property. Access to the alley from the building and loading of merchandise into the building would take place on the south side of the building, adjacent to the public alley. There would be no on-site parking.

A lot occupancy of 97 percent is proposed.

RELIEF REQUESTED:

Variance to § 2101.1 – Schedule of Requirements for Parking Spaces

Section 2101.1 requires 20 off-street parking spaces for the proposed building. The application proposes to provide no off-street parking spaces.

The subject property is unique as a result of its triangular shape, small size and the existence of a public alley dividing the site into two noncontiguous pieces. This uniqueness results in an extraordinary and exceptional situation. Due to the small size of the property, off-street parking would need to be provided within a garage as the site is too small to accommodate 20 surface parking spaces. However, the size and triangular shape of the property would result in only 4 spaces per level, requiring a 5-level below grade garage to satisfy the minimum parking requirements for a one-story building, which would be an undue hardship on the applicants.

Variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as the site is located within 200 feet of the entrance to the Georgia Avenue/ Petworth Metrorail station. The use intended to serve local residents and those going to and from the Metrorail station. Therefore, the Office of Planning recommends that the Board grant the requested variance relief to off-street parking.

Variance to § 2201.1 – Schedule of Requirements for Loading Berths, Loading Platforms, and Service/Delivery Loading Spaces

Section 2201.1 requires one 30-foot deep loading berth and one 100-square foot loading platform. The application proposes to provide no on-site loading facilities.

The subject property is unique in that it is small in size and split by a 15-foot wide public alley. Provision of loading facilities would reduce what is already proposed to be a small CVS store. The applicants have worked with the District Department of Transportation (DDOT) and DDOT has agreed that the applicants could load within the public alley on the south side of the proposed building, provided the paving is widened onto the applicants' property on the south side of the alley (Lot 145), resulting in a width of 24 feet. This would allow for vehicles to pass any trucks that may be loading within the alley without impairing circulation. Loading would not be permitted within the adjacent public streets and could only be scheduled to take place within the alley between the hours of 8:00 AM and 7:00 PM, Monday through Friday. DDOT informed the Office of Planning by telephone that the revised drawings are acceptable.

This uniqueness results in an extraordinary and exceptional situation. In order to construct a store on the existing small site the applicants would have to reduce the size of the store to even less than the 9,100 square feet proposed. Reducing the store further in size would also not be consistent with the provision of new modern retail spaces as recommended by the *Georgia Avenue – Petworth Metro Station Area and Corridor Plan*, especially for the smaller properties located south of New Hampshire Avenue. The applicants are also unable to consolidate the two lots because of the location of the public alley. However, the applicants do propose to utilize a portion of its property to ensure unimpaired alley circulation.

Variance relief can be granted to the loading provisions without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan because the applicants have agreed to pave a portion of their site to be used to bypass any loading taking place within the alley and ensure adequate vehicular circulation. Therefore, the Office of Planning recommends that the Board grant the requested variance relief.

Variance to § 2500.1 – Accessory Uses and Buildings

Section 2500.1 requires any accessory use to be located on the same lot with the use or building to which it is accessory. The subject application proposes to locate the refuse dumpster and the recycling dumpster on Lot 145, the smaller of the two lots and not on the same lot as the proposed CVS building to which they are accessory.

The subject property is unique in that it is separated into two pieces by a public alley. The applicants are unable to use the smaller of the two lots for any use accessory to the CVS store without a variance to this provision. Lot 145 consists of only 1,787 square feet and cannot be consolidated into the larger lot because the two lots do not abut.

This uniqueness results in an extraordinary and exceptional situation. In order for the applicants to make use of the entire property the dumpsters must be located on the smaller lot. The dumpsters would be enclosed by 8-foot, 4-inch high brick walls, matching the brick proposed to

be used on the store building and screening the dumpsters from public view. Trees and shrubs would buffer the dumpsters from Patterson Place and Georgia Avenue, the two street frontages of this lot.

Variance relief can be granted to the accessory use provisions without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan because of the small size of Lot 145 and the proposed screening of the dumpsters and buffering of the dumpster enclosures. Therefore, the Office of Planning recommends that the Board grant the requested variance relief.

GEORGIA AVENUE OVERLAY DISTRICT

The subject property is located within the Georgia Avenue Overlay District and as such is subject to the design requirements under § 1328. The application is in conformance with the provisions of § 1328 as described below.

1328 DESIGN REQUIREMENTS (GA)

1328.1 The design requirements of §§ 1328.2 through 1328.11 shall apply to any lot in the GA Overlay District for which a building permit was applied for after December 11, 2006.

The subject application was filed on August 1, 2008 and is therefore subject to the provisions of this section.

1328.2 Buildings shall be designed and built so that not less than seventy-five percent (75%) of the street wall at the street level shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to all property lines abutting public streets.

The proposed building would be constructed to the property lines abutting Georgia Avenue and New Hampshire Avenue.

1328.3 In the GA/C-2-A Zone District, seventy percent (70%) lot occupancy shall be permitted for mixed use buildings that include residential use.

Not applicable. The subject property is located within the GA/C-3-A zone district.

1328.4 On-grade parking structures with frontage on Georgia Avenue, N.W. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.

Not applicable. No on-grade parking structures are proposed.

1328.5 Each building on a lot that fronts on Georgia Avenue, N.W. shall devote not less than fifty percent (50%) of the surface area of the street wall at the ground level to entrances to commercial uses or to the building's main lobby, and to display

windows having clear or clear/low emissivity glass. Decorative or architectural accents do not count toward the fifty percent (50%) requirement.

The application indicates that not less than 50 percent of the surface area of the street wall at the ground level will be devoted to building entrances or display windows having clear or clear/low emissivity glass.

1328.6 *Security grilles over windows or doors shall have no less than seventy percent (70%) transparency.*

The subject application does not propose the use of security grilles.

1328.7 *Each commercial use with frontage on Georgia Avenue, N.W. shall have an individual public entrance directly accessible from the public sidewalk.*

The proposed CVS store, the only commercial use proposed for the site, would have an individual public entrance directly accessible from the public sidewalk at the corner of Georgia Avenue and New Hampshire Avenue.

1328.8 *Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby.*

The proposed building would be designed so as not to preclude an entrance every 40 feet.

1328.9 *The ground floor level of each building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.).*

The building would be designed to have a minimum floor-to-ceiling height of 14 feet.

1328.10 *Buildings subject to § 1328.9 shall be permitted an additional five feet (5 ft.) of building height over that permitted as a matter-of-right in the underlying zone.*

Although the proposed building would be subject to the provisions of § 1328.9, it is 26 feet in height, less than the maximum 65 feet permitted within the C-3-A district.

1328.11 *Notwithstanding 11 DCMR § 2116.2, off-street surface parking shall be permitted in rear yards only.*

No off-street surface parking would be provided.

The Office of Planning concludes that the subject application is in conformance with the provisions of Georgia Avenue Overlay District.

COMMUNITY COMMENTS

ANC 1A, at its regularly scheduled meeting of November 12, 2008, voted to support the application.

ANC 4C, located across New Hampshire Avenue from the subject property, voted in support of the application at its regularly scheduled meeting of November 13, 2008.

AGENCY COMMENTS

DDOT informed the Office of Planning by telephone that it is satisfied with the design of the loading facilities and is in support of the parking variance.

The **Office of the Deputy Mayor for Planning and Economic Development (DMPED)** informed the Office of Planning electronically that it and **Councilmember Jim Graham** are in support of the application.

RECOMMENDATION

The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, the character of the neighborhood and the standards for variances. The Office of Planning concludes that the requested variances meet the required tests and can be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The Office of Planning also concludes that special exception approval subject to §1330.1 of the Zoning Regulations is not required because no buildings would be constructed on a lot consisting of 12,000 square feet or more of land area.

The Office of Planning recommends **APPROVAL** of the following:

- 1) **A variance to § 2101.1 of Title 11 DCMR**, to reduce the minimum off-street parking requirement from 20 to 0;
- 2) **A variance to § 2201.1 of Title 11 DCMR**, to reduce the minimum number of loading berths and loading platforms from one to 0; and
- 3) **A variance to § 2500.1 of Title 11 DCMR**, to permit accessory dumpsters to not be located on the same lot as the primary use

subject to the following conditions:

1. Loading may only be scheduled to take place between the hours of 8:00 AM and 7:00 PM, Monday through Friday;
2. No loading activities may take place within the public streets; and
3. Installation of the brick dumpster enclosures and landscaping as shown on Sheet No. 6, titled "South Elevation" and dated November 25, 2008.